

REMARKS

By the present amendment, Applicants have amended Claims 1 and 4, and cancelled Claim 2. Claims 1, and 3-5 remain pending in the present application. Claim 1 is the sole independent claim.

Applicants appreciate the courtesies extended to their representative during the personal interview held December 12, 2004. The present response summarizes the substance of the interview. At the interview a proposed amendment to the claims was presented. Proposed amended independent Claim 1 set forth a disposable undergarment having a belt portion, and a flap portion. The belt portion consists of a length having a front and a back, defined between a first end and a second end. The length is wrapped around the midriff of the user and said first end and said second end are releasably secured for holding said belt portion around the midriff of the user. The first end has a first mating part of a hook and loop fastener, and said second end has the second mating part of a hook and loop fastener. The flap portion consists of a generally rectangular segment defined between a front end and a back end. The back end is permanently secured to the back of the belt portion. The flap portion selectively covers the middle buttocks area of the user and is selectively wrapped between the two legs of the user. The front end of said flap portion is selectively disposed between the two legs of the user and over the crotch area of the user, such that two leg openings are formed. The front end of the flap portion is releasably secured to the front of the belt portion, wherein said front end of flap portion is selectively disposed adjacent to the back of the belt portion and is releasably secured to said back end of said flap portion. When the user uses a toilet, the flap portion is positioned so as to reduce the potential to be soiled.

Arguments were advanced that the applied prior art of record failed to anticipate, or render obvious the embodiment set forth by proposed amended claims. Although the Examiner indicated

that the proposed claim language attempted to define the claims over the prior art, the Examiner was unpersuaded as to the patentability of Applicant's invention.

In the recent Office Action dated November 3, 2004 the Examiner objected to Claim 1 because the informalities. Applicants have amended the claims to more clearly recite the structural features of the claims. Applicants respectfully submit that Claims 1, and 3-5 as amended, are devoid of the informalities noted of record.

The claims in this application have been revised to more particularly define Applicants' unique construction in view of the prior art of record. Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the claims in light of the amendments and for the following reasons is respectfully requested.

The Examiner rejected Claims 1-5 under 35 U.S.C. 102(b), as being anticipated by Lonon. This rejection is respectfully traversed.

The applied prior art reference to Lonon discloses garments, such as underpants, or body suits, having front and back body panels, which terminate in a narrow connecting seat flap several inches wide, constructed to cover the crotch. One end of the narrow seat flap is integral with or connected to the center of the back body panel. Across the other end of the seat flap on the underside is sewn a first strip comprising the hook type of a self-gripping fastening material. The garments disclosed in Lonon are not disposable. Further, assuming *arguendo* that the non-disposable garments are applicable, the structures of the garments as described in Lonon fail to anticipate the structure of instant claims. Specifically, the claimed belt portion is set forth as being disposed around the midriff of the wearer, whereas the alleged belt portion relied upon by the Examiner extends beyond the midriff, and covers the buttocks and portions of the wearer's hips. In

addition, the Lonon further describes that one disclosed garment additionally cover the upper torso of the wearer. In addition, the flap portion of Lonon does not anticipate the recited rectangular segment as set forth in independent Claim 1. Applicants respectfully submit that the non-disposable garments set forth in the applied prior art reference to Lonon fails to anticipate the instantly claimed embodiment. Applicants respectfully request the withdrawal of this particular ground of rejection.

The Examiner rejected Claims 1-3, and 5 under 35 U.S.C. 102(e), as being anticipated by Yeater et al. This rejection is respectfully traversed.

The applied prior art reference to Yeater et al. discloses a garment generally having a front waistband, a rear waistband, and a crotch section. The front and rear waist bands form a continuous loop, and the crotch preferably is permanently joined to the rear waist band and releasably connected to the front waist band by gripping and target connectors. The location of the gripping and target connectors is provided such that the front waistband covers them while the garment is being worn. As such, the garment would prove extremely difficult for a wearer to utilize the separable crotch section to use the toilet, particularly in an urgent manner. Thus, the garment disclosed in Yeater et al. does not anticipate the garment as set forth in the instantly claimed embodiment, as being secured to the front of the belt portion. Applicants respectfully request the withdrawal of this particular ground of rejection.

The Examiner rejected Claims 4 under 35 U.S.C. 103(a) as being unpatentable over Yeater et al. in view of Lonon. This rejection is respectfully traversed.

As discussed above, Yeater et al., does not disclose all of the limitations of independent Claim 1, thus the limitations of dependent Claim 4 are not met. Although, the Examiner relies on the Lonon reference to show the attachability of the flap to the rear of the garment, there is no guidance or motivation found in either Yeater et al. or Lonon, taken alone or in combination, that

would have led one having ordinary skill in the art to arrive at the unique structure set forth in Applicants' claims. Specifically, there is no teaching in Yeater et al. for modifying the gripping and target connectors to be on the front of the belt member. Lonon is relied upon to show the hook and loop fasteners on the back of the garment. However, there is no direction to modify Yeater et al. by replacing the gripping and target connector so as to not be covered by the front of the waistband. Assuming arguendo that the alleged combination as purported by the Examiner could be accomplished, the end result would be a destruction of the structure and purpose of the garment described in Yeater et al. Applicants submit that aside from any other prior art teaching, except for Applicants own disclosure, dependent Claim 4, as amended, is allowable over the applied combination of references. Applicants respectfully request the withdrawal of this particular ground of rejection.

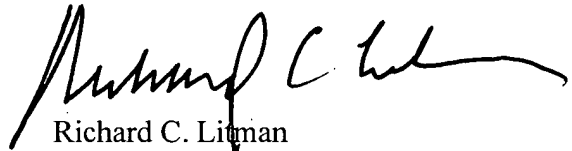
Applicants have amended the claims of this application to more clearly define Applicants' claimed embodiment, and have provided arguments that clearly distinguish the instant claims over the applied prior art of record. Applicant respectfully submits that for at least these reasons, Claims 1, and 3-5 are allowable over the prior art applied of record.

Application Serial No.: 10/627,781
Art Unit: 3761

Attorney Docket No. 22510.00
Confirmation No. 5345

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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